

California Victim Compensation and Government Claims Board Open Meeting Minutes

October 20, 2005

The California Victim Compensation and Government Claims Board convened its regular session at the call of Fred Aguiar, Secretary, State and Consumer Services Agency, at the First Floor Hearing Room, 630 "K" Street, Sacramento, California, on Thursday, October 20, 2005, at 10:00 a.m. Also present were Board members Windie Scott, Deputy State Controller, acting for and in the absence of Steve Westly, Controller and Michael Ramos, San Bernardino County District Attorney.

Board staff present included Karen McGagin, Executive Officer; Tom O'Connor, Chief Deputy Executive Officer; Kathleen Andleman, Chief Counsel; Tim Eldred, Manager, Government Claims Program; and Linda Mata, Acting Board Liaison, recorded the meeting.

The Board meeting commenced at 10:00 a.m. with the pledge of allegiance.

MINUTES

The Board voted to adopt the minutes of the September 15, 2005 Board meeting.

GOVERNMENT CLAIMS PROGRAM

Item 1 **Government Claims Consent Agenda**

The Board voted to adopt the staff recommendations on the claims listed on the Government Claims Program Consent Agenda with the following changes:

Item 294 **Claimant: Brock A. McCue** **G556417**

The claim of Brock A. McCue was referred back to staff.

Item 364 **Claimant: Philippe Lelong** **G555093**

Claimant withdrew claim.

Total Claims	Claims Rejected	Claims Allowed in Whole or Part	Claims Allowed	
			Paid via Gov. Code §965	Paid via Claims Bill
373	246	76	31	45

Item 2 **Claimant: Contra Costa County Sheriff's Office** **544362**

Commander George Lawrence, Lt. Dennis Kahane, Eileen Devlin, and Wanda Quever, appeared on behalf of the Contra Costa County Sheriff's Office. Catherine L. Malbouvier, Chrisman L. Swanberg, and Charles D. Gutierrez appeared on behalf of the Department of Corrections and Rehabilitation.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$3,482,593.00

Item 3 **Claimant: Elizabeth Hartley** **G533050**

The Board agreed to continue the claim of Elizabeth Hartley to its November 17, 2005 meeting.

Item 4 **Claimant: Alvarado Hospital** **G555278**

The Board voted to adopt the staff recommendation that the claim be partially allowed in the amount of \$42,900 under the authority of Government Code section 965 (agency pay).

Item 5 **Claimant: Department of Water Resources** **G551430**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$6,942.30, paid by Department of Fish and Game pursuant to Government Code section 13928 (legislative pay).

Item 6 **Claimant: Carole Hyman** **G552553**

Chaplain Carole Hyman appeared.

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$2,170 pursuant to Government Code section 965 (agency pay).

Item 7 **Claimant: Alternative Programs, G540627, G546232, G540841, GG540703, G552455, G552248**

The Board agreed to continue the claims of Alternative Programs, Inc., to the November 17, 2005 meeting.

The representing attorney for the claimant requested that the claims of Alternative Programs, Inc., be continued until the next meeting and requested that staff include claim number G546236.

Item 8 **Claimant: Stephen Steinberg** **555618**

Catherine VanAken, Supervising Deputy Attorney General, Nancy Matson, Deputy Director, and Andrew Wagner, Medial Producer/Director of the Attorney General's Crime and Violence Prevention Center, appeared on behalf of the Department of Justice. Also present were Stephen Steinberg, claimant, Derrick Bell Attorney for Get A Grip and Steve Rosetta.

The Board voted to approve the staff recommendation to reject the claim.

Item 9 **Claimant: Sentry Insurance** **G554043**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$9,845.32, to be paid by California Conservation Corps under the authority of Government Code section 965 (agency pay).

Item 10 **Claimant: Tenet California** **G545504, G546001, G548355, G548413**

The Board voted to adopt the staff recommendation to allow the claims in the amount of \$9,296 to be paid to by CDCR pursuant to Government Code section 965 (agency pay).

G545504	\$5,642.00
G546001	\$1,154.00
G548355	\$ 900.00
G548413	\$1,600.00

Item 11 **Claimant: Falcon Critical Care Transport** **G551909**

The Board voted to adopt the staff recommendation to allow the claim in the amount of \$1,185.00, to be paid by CDCR, pursuant to Government Code section 965 (agency pay).

Item 12 **Application by Employment Development Department for Reimbursement G553667**

The Board voted to adopt the staff recommendation as follows: 1) the Board re-examine the claim pursuant to Government Code section 913.2; and 2) the Board allow the claim in the amount of \$72,325.66, to be paid under the authority of Government Code section 13928 (legislative pay).

Item 13 **Discharge of Accountability for Uncollectible Accounts** **G552553**

Tim Eldred, Manager, Government Claims Program, presented the "Discharge from Accountability for Uncollectible Accounts, pursuant to Government Code section 13940, et seq." These requests have been reviewed by the Offices of the State Controller and Attorney General, who recommended approval by the Victim Compensation and Government Claims Board pursuant to Government Code section 13940, et seq.

Board staff received 58 requests totaling \$310,989,051.89. The Board voted to approve the staff recommendation that these requests be allowed.

Item 14 **Claimant: David Berry, (Penal Code §4900)** **G542785**

The Board voted to adopt the proposed decision to deny the claim of David Berry, filed pursuant to Penal Code section 4900 et seq.

Item 15 **Claimant: Arturo Cortez, (Penal Code §4900)** **G550003**

The Board voted to adopt the proposed decision to deny the claim of Arturo Cortez, filed pursuant to Penal Code section 4900 et seq.

Item 16 **Claimant: Peter Rose, (Penal Code §4900)** **G554383**

The Board voted to adopt the proposed decision to recommend that the Legislature make an appropriation in the amount of \$328,200.00 to indemnify Peter Rose for pecuniary injury sustained through his erroneous conviction and imprisonment.

Item 17 **A-1 Distributing, Inc.** **(IFB) NO. 54049**

Paul Dauer attorney, appeared on behalf of A-1 Distributing, Inc. Also present was Kathleen A. Yates, Senior Staff Counsel for the Department of General Services, Procurement Division.

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of A-1 Distributing, Inc. Invitation for Bid (IFB) No. 54049."

The Board voted to adopt the staff recommendation to dismiss the protest without further hearing.

Item 18 **Fairfax Imaging, Inc.** **(IFB) NO. FTB-0405-22**

Bill Merritts, Vice-President of Fairfax Imaging, Inc., appeared. Gary Burke, District Sales Manager for Scan Optics appeared. Kathleen Yates, Senior Chief Counsel for Department of General Services, Procurement Division was present.

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of Fairfax Imaging, Inc. Invitation for Bid (IFB) No.-0405-22

The Board continued the protest of Fairfax Imaging, Inc. to the November 17, 2005 meeting. The Chair requested that a representative from Procurement be present and be prepared to address the issues regarding the protest.

Item 19 **Komatsu America Corporation, Inc.** **(RFQ) NO. 54465**

Protestant Walt Westerback, owner of Komatsu America Corporation, Inc., and Kathleen A. Yates, Senior Staff Counsel, Department of General Services appeared.

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of Komatsu America Corporation, Inc. Request for Quote (RFQ) No. 54465."

The Board voted to adopt the staff recommendation to dismiss the protest without further hearing.

Item 20 **USA Construction, Inc.** **(IFB) NO. 54612**

Protestant Peter Ramirez and Kathleen Yates Senior Staff Counsel, Department of General Services appeared.

Kathleen Andleman, Chief Counsel, presented the "Dismissal Without Further Hearing of the Protest of USA Construction, Inc. Invitation for Bid (IFB) No. 54612."

The Board voted to adopt the staff recommendation to dismiss the protest without further hearing.

VICTIM COMPENSATION PROGRAM

The Board commenced the Victim Compensation Program portion of the meeting at 11:40 a.m.

REPORTS TO THE BOARD

THE EXECUTIVE OFFICER'S STATEMENT

The Executive Officer's written report was presented to the Board.

CONTRACTS REPORT

Ms. McGagin delivered the "Contracts Report" for September 2005.

PROPOSED 2006 BOARD MEETING CALENDAR

The Board will review the meeting dates for calendar year 2006. The matter was continued to the next Board meeting on November 17, 2005.

RELIEF FROM LIABILITY FOR OVERPAYMENTS

The Board approved the staff's request for relief from the collection of 8 overpayments totaling \$48,344.02, resulting from the Victim Compensation Program.

REQUESTS FOR RECONSIDERATION

The Board voted to adopt the staff recommendations to allow the requests for reconsideration for agenda item numbers 1 through 8, deny the requests for reconsideration for agenda item numbers 9 through 38, and deny requests for reconsideration after Board action on a proposed decision for agenda item numbers 39 and 40.

Claimant Hugh S. appeared before the Board on agenda item 40.

Item 9	<u>CLAIMANT</u>	<u>534006V</u>
Item 10	<u>CLAIMANT</u>	<u>617957V</u>
Item 11	<u>CLAIMANT</u>	<u>627150V</u>
Item 12	<u>CLAIMANT</u>	<u>665163V</u>
Item 13	<u>CLAIMANT</u>	<u>686625V</u>
Item 14	<u>CLAIMANT</u>	<u>729992V</u>
Item 15	<u>CLAIMANT</u>	<u>738651V</u>
Item 16	<u>CLAIMANT</u>	<u>781909V</u>
Item 17	<u>CLAIMANT</u>	<u>828615V</u>
Item 18	<u>CLAIMANT</u>	<u>829640V</u>
Item 19	<u>CLAIMANT</u>	<u>837975V</u>
Item 20	<u>CLAIMANT</u>	<u>842116V</u>
Item 21	<u>CLAIMANT</u>	<u>845784V</u>
Item 22	<u>CLAIMANT</u>	<u>850036V</u>
Item 23	<u>CLAIMANT</u>	<u>852133V</u>
Item 24	<u>CLAIMANT</u>	<u>853147V</u>

Item 25	CLAIMANT	853348V
Item 26	CLAIMANT	857622V
Item 27	CLAIMANT	855129V
Item 28	CLAIMANT	855388V
Item 29	CLAIMANT	855648V
Item 30	CLAIMANT	856010V
Item 31	CLAIMANT	857176V
Item 32	CLAIMANT	857945V
Item 33	CLAIMANT	858999V
Item 34	CLAIMANT	859757V
Item 35	CLAIMANT	860139V
Item 36	CLAIMANT	865195V
Item 37	CLAIMANT	867209V
Item 38	CLAIMANT	867389V
Item 39	CLAIMANT	847292V
Item 40	CLAIMANT	715185V

CLAIMS FOR WHICH APPEALS WERE WITHDRAWN OR DEEMED TO BE WITHDRAWN

The Board voted to adopt the staff recommendations on the claims for which appeals were withdrawn or deemed to be withdrawn under California Code of Regulations, Title 2, section 647.35 and action on claims for which a hearing was denied under California Code of Regulations, Title 2, section 647.20.1 for agenda item numbers 41 through 59.

CLOSED EXECUTIVE SESSION (GC § 11126(c)(3) and 11126(e)(1))

Pursuant to Government Code sections 11126(c)(3) and 11126(e), the Board adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 12:10 a.m. to deliberate on the proposed decisions for agenda item numbers 68 through 76 and to confer with and receive advice from Legal Counsel regarding pending litigation.

The Board reconvened into open session at 12:15 p.m.

PROPOSED DECISIONS

Item 60	CLAIMANT	447965V
The Board voted to adopt the proposed decision.		
Item 61	CLAIMANT	470241V
The Board voted to adopt the proposed decision.		
Item 62	CLAIMANT	503453V
The Board voted to adopt the proposed decision.		
Item 63	CLAIMANT	623656V
The Board voted to adopt the proposed decision.		
Item 64	CLAIMANT	749879V
The Board voted to adopt the proposed decision.		
Item 65	CLAIMANT	390459V
The Board voted to adopt the proposed decision.		
Item 66	CLAIMANT	775755V
The Board voted to adopt the proposed decisions.		
Item 67	CLAIMANT	780034V, 780039V, 780040V
The Board voted to adopt the proposed decision.		

Item 68	<u>CLAIMANT</u>	<u>788539V</u>
The Board voted to adopt the proposed decision.		
Item 69	<u>CLAIMANT</u>	<u>796790V, 796786V, 796760V</u>
The Board voted to adopt the proposed decision.		
Item 70	<u>CLAIMANT</u>	<u>809811V</u>
The Board voted to adopt the proposed decision.		
Item 71	<u>CLAIMANT</u>	<u>824742V</u>
The Board voted to adopt the proposed decision.		
Item 72	<u>CLAIMANT</u>	<u>833018V, 833011V, 833033V, 833027V 833029V</u>
The Board voted to adopt the proposed decisions.		
Item 73	<u>CLAIMANT</u>	<u>837796V</u>
The Board voted to adopt the proposed decision.		
Item 74	<u>CLAIMANT</u>	<u>862529V</u>
The Board voted to adopt the proposed decision.		
Item 75	<u>CLAIMANT</u>	<u>867658V</u>
The Board voted to adopt the proposed decision.		
Item 76	<u>CLAIMANT</u>	<u>871891V</u>
The Board voted to adopt the proposed decision.		

ADJOURNMENT

The meeting was adjourned at 12:17 p.m.

KAREN McGAGIN
Executive Officer

I certify that the California Victim Compensation and Government Claims Board adopted these minutes at its meeting of _____ at _____, California.

Date: _____ By: _____

Linda Mata
Acting Board Liaison

(Affix seal here)